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ARIBA, INC.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

ARIBA, INC.,  
  
Plaintiff/Counter-defendant,  
  
v.  
  
COUPA SOFTWARE INC.,  
  
Defendant/Counterclaimant.

Case No. 3:12-cv-01484 WHO

**ARIBA, INC.'S ADMINISTRATIVE  
MOTION FOR LEAVE TO FILE A  
SUPPLEMENTAL BRIEF ON  
WHETHER § 112, ¶ 6 APPLIES TO  
“DECIDING BETWEEN”**

Judge: Hon. William H. Orrick

Complaint Filed: March 23, 2012

Trial Date: Not Set

**JURY TRIAL DEMANDED**

1 Pursuant to Civil Local Rule 7-11, Ariba respectfully moves for leave to file the attached  
2 Supplemental Brief on Whether § 112, ¶ 6 Applies to “Deciding Between.” [See Ex. 1 to the  
3 Declaration of Ms. Amy Van Zant (“Van Zant Decl.”).]

4 Ariba requests this relief to address an issue that came up during the claim construction  
5 hearing on September 13, 2013. The Court stated that it was inclined to apply 35 U.S.C. §  
6 112, ¶ 6 to the “deciding between” limitation from Claims 35 and 41 because the limitation  
7 closely tracks the “order generating means” limitation from Claim 1, only without invoking the  
8 word “means.” Ariba submits this supplemental brief on the narrow issue of whether 35 U.S.C.  
9 § 112, ¶ 6 properly applies to the “deciding between” limitation found in Claims 35 and  
10 41 where, as here, the claim limitation contains something that can be construed as an act  
11 (namely, “deciding between” the ordering modules).

12 Ariba has conferred with counsel for Coupa regarding the relief requested herein, and  
13 Coupa’s counsel opposes this motion.

14 Therefore, Ariba respectfully requests an order permitting it to file the brief  
15 attached as Exhibit 1 to the Van Zant Declaration.

16  
17  
18 DATED: September 16, 2013

COVINGTON & BURLING

19 By: /s/ Amy K. Van Zant

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